EARTHJUSTICE

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SEATTLE, WASHINGTON TALLAHASSEE, FLORIDA WASHINGTON, D.C.

May 7, 2008

Via Facsimile and Electronic Mail

Ms. Linda Fiack
Executive Director
Delta Protection Commission
14215 River Road
Walnut Grove, CA 95690

Re: Revised Old Sugar Mill Project and Land Use Policy 4

Dear Ms. Fiack, Chair and Members of the Delta Protection Commission:

We write once again on behalf of the Natural Resources Defense Council ("NRDC") regarding the revised Old Sugar Mill Project near Clarksburg. By letter dated March 13, 2008, NRDC provided the Delta Protection Commission ("DPC") with extensive documentation demonstrating that the revised Old Sugar Mill Project is inconsistent with the Land Use and Resource Management Plan for the Primary Zone of the Delta (the "Delta Plan"). This letter focuses on the one remaining issue: whether the revised Project comports with the requirements of the Delta Plan's Land Use Policy 4. That Policy provides:

> New non-agricultural residential development, if needed, shall be located within the existing Primary Zone communities where support infrastructure and flood protection are already provided.

14 Cal. Code Regs. § 20060(d) (emphasis added).

As set forth below, the residential component of the revised Old Sugar Mill Project is inconsistent with Land Use Policy 4 in multiple respects. First, there is no evidence that the proposed 123 residential units are "needed." Second, it is well established that flood protection for the proposed residences is not "already provided." Finally, even if Land Use Policy 4 did not require explicitly that flood protection be "already provided," the new flood mitigation that has been proposed for the revised Old Sugar Mill Project is not adequate.

I. There Is No Evidence that 123 Residential Units Are "Needed."

There is no evidence that 123 new residences – almost twice the number of existing residences in Clarksburg – are "needed." To the contrary, the 2001 Clarksburg General Plan explains:

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> Presently, 132 housing units exist in the Clarksburg town area. Population for the town area is projected to increase by 68 people by 2020, for a total of 494 people (13 percent increase). . . . The projected increase in the town's population by 68 people would require a total of 26 new housing units through 2020.

Clarksburg General Plan at 50 (emphasis added). In light of the above, the Clarksburg General Plan provides in no uncertain terms that the "approval of a maximum of 33 new single-family residential parcels . . . are allowed in the town area through 2011." *Id.* at 4 (emphasis added). Yet the year after the Clarksburg General Plan was adopted, Yolo County began planning the Old Sugar Mill Project.

As the DPC found previously, Yolo County is unable to explain why – despite the clear findings and intent of the General Plan – Clarksburg must suddenly change course and construct 123 new residences, nearly four times the maximum residences allowed through 2011 by the General Plan. *See* Findings and Analysis of the DPC (Feb. 22, 2007) ("DPC Findings") at 7. Yolo County's inability to demonstrate that the proposed housing is needed renders the Old Sugar Mill Project inconsistent with Land Use Policy 4.

II. Adequate Flood Protection Is Not "Already Provided."

It is well established – and essentially undisputed – that adequate flood protection for the proposed 123 residential units is not "already provided." Indeed, it is precisely because the Old Sugar Mill site currently lacks adequate flood protection that the developer proposes to elevate the proposed housing above the 100-year base flood elevation.

The only existing flood protection in Clarksburg is provided by 32.4 miles of earthen levees that were constructed in 1918. The California Reclamation Board (now the Central Valley Flood Protection Board) advised Yolo County in 2005 that "[a]gricultural, industrial, and other non-residential land use practices are compatible with the state plan of flood control for which the existing levees were constructed." Letter from Peter D. Rabbon to David Morrison (Aug. 3, 2005) (Attachment A hereto) at 2 (emphasis added). The Board objected that the Old Sugar Mill Project "forc[es] levees that have been built for agricultural reclamation, and relied upon primarily for that purpose, to support increased human development and related activity." *Id.* at 3.

Because they were grandfathered into the FEMA program, Clarksburg's levees are certified as providing 500-year flood protection. However, Yolo County recognizes that there is insufficient geotechnical information to evaluate the integrity of Clarksburg's levees under modern-day standards. Accordingly, the County acknowledges that Clarksburg's levees will soon be decertified as providing even 100-year protection. The County explains:

> With the general absence of geotechnical information for much of the levee system within [Reclamation District] 999, it is difficult to confirm whether RD 999 levees meet the structural requirements for a 100-year flood event. As a consequence, it is probable that the RD 999 floodplain would be considered unprotected during the base flood (100 yr. event) due to the lack of structural integrity confirmation data.

Exhibit A to CEQA Findings of Fact & Statement of Overriding Considerations (Oct. 24, 2006) at 68 (emphasis added). *See also* DPC Findings at 6 ("Flood protection for the project area is uncertain and may be below a 100-year level.").

Ultimately, Yolo County concedes that the risk that Clarksburg's levees will fail is "significant and unavoidable." EIR Addendum at 19 (emphasis added). Because adequate flood protection is not "already provided" at the Old Sugar Mill site, the proposed residences are inconsistent with Land Use Policy 4.

III. The Proposed New "Flood Mitigation" Is Not Adequate.

Because Clarksburg's agricultural levees do not already provide adequate flood protection, Yolo County developed revised Mitigation Measure 4.7.7a, which provides:

> Habitable areas of all residential units shall be constructed with the floor level one foot above the [100-year] base flood elevation ("BFE") consistent with the County Flood Damage Prevention Ordinance.

EIR Addendum at 17. However, even if Land Use Policy 4 did not require explicitly that flood protection be "already provided," and even assuming that the residences would in fact be elevated above the 100-year BFE,[1] this would not constitute adequate flood protection.

First, simply elevating houses does nothing to address significant flood safety issues such as evacuation and access to emergency services. In its comments on the Project, the Department of Transportation expressed concerns regarding "flooding in an area of proposed single family residential, cottage residential, and senior/cluster residential housing which is far removed from emergency services." *See* Letter from Katherine Eastham to David Morrison (Dec. 19, 2005) (Attachment B hereto) at 2. The Department urged the County to "address (with maps) emergency evacuation routes to and from the project area after consultation with City of West Sacramento, Yolo County Transit District and Caltrans." *Id.* Yolo County declined to do so, recommending instead that "[e]ach residence should take the responsibility to have food, water

[1] As discussed in NRDC's March 13 letter at 5, because FEMA has not yet established the 100-year BFE for the Old Sugar Mill site and may not do so before building permits are issued, Mitigation Measure 4.7.7a does not guarantee that homes will be built above what FEMA ultimately determines is the 100-year BFE.

and medicines (emergency survival supplies) in case of an emergency." Response to Comments at YY-6.

Moreover, as detailed in NRDC's March 13 letter, there is a broad consensus among scientists and engineers that what once constituted – and may even today provide – 100-year flood protection is not adequate for residential development in the Delta, because catastrophic floods are becoming more frequent due to global warming. *See, e.g.*, DRMS Phase 1 Risk Analysis (Attachment 11 to NRDC's March 13 letter) at 14-4 ("[A] flood that can now be expected to occur about once in 100 years can be expected to occur once in about 67 years by 2050."); SWP Report (Attachment 2 to March 13 letter) at 21 (anticipating "Delta flood harzards . . . to increase by 200% due to sea level rise and more frequent high flows"); A California Challenge (Attachment 2 to March 13 letter) at v ("One hundred year protection is not an acceptable level of protection."). These scientific studies – which Yolo County refuses to take into account – compel the conclusion that raising houses above today's 100-year BFE will not protect residents from the "significant and unavoidable" risk of catastrophic levee failure.

Yolo County maintains that recently enacted Senate Bill ("SB") 5 (Machado) suggests that the Legislature regards 100-year flood protection as adequate for urban-density residential development, as long as that development is in rural areas. *See* Findings of Yolo County regarding the Old Sugar Mill Project, as Revised (March 11, 2008) ("Yolo Findings") at 10. It is true that SB 5 allows 100-year flood protection in "nonurbanized areas" of less than 10,000 people. *See, e.g.,* Gov. Code § 65865.5(a)(1). However, SB 5 does not discourage – much less prohibit –regulatory bodies such as the DPC from requiring additional flood protection in areas such as the Delta Primary Zone, where the risk of flooding is especially severe. Here, the relevant legislation is the Delta Protection Act, which specifically finds that the leveed islands and tracts of the Delta Primary Zone "are floodprone areas of critical statewide significance due to the public safety risks and costs of public emergency responses to floods." Pub. Res. Code § 29704 (emphasis added). Accordingly, the Act grants the DPC broad authority to prohibit any development in the Primary Zone that would "expose the public to increased flood hazard." *Id.* § 29763.5(g) (emphasis added). Because the Legislature was aware of the Delta Protection Act when it enacted SB 5, it is not surprising that the Legislature did not specifically address residential development in the Primary Zone, reasonably assuming that flood protection above and beyond the 100-year baseline would already be required under existing law.[2]

Ultimately, the revised Old Sugar Mill Project would have a significantly greater residential density (5.8 units per acre) than many "urban" areas of 10,000 people or more. That is why the Central Valley Flood Protection Board, in its comments on the Old Sugar Mill Project, urged Yolo County to "demonstrate that the flood control system is adequate to protect

[2] Notably, there are no statutory "urban areas" of greater than 10,000 people within the Delta Primary Zone. It makes little sense that the Legislature, in enacting SB 5, intended to limit flood protection in the very area that is most at risk from flooding.

an urbanized area." *See* Attachment A at 3 (emphasis added). Consistent with SB 5, NRDC submits that an appropriate "urban level of flood protection" is "the level of protection that is necessary to withstand flooding that has a 1-in-200 chance of occurring in any given year." Gov. Code § 65007(k).

Yolo County acknowledges implicitly that 200-year flood protection is appropriate for the Old Sugar Mill Project. Mitigation Measure 4.7.8 calls for a geotechnical study of the levee adjacent to the Old Sugar Mill site. *See* Exhibit A to CEQA Findings of Fact & Statement of Overriding Considerations (Oct. 24, 2006) at 82. If the study reveals "conditions of concern with regard to stability or seepage," the developer must prepare a "Flood Protection Plan" that:

> (a) identifies the improvements that are expected to be necessary to ensure that the Sacramento River levees provides 200-year flood protection; and (b) sets forth a financing plan that includes an estimate of the cost of implementing all necessary improvements to obtain 200-year flood protection certification.

Id. (emphasis added). As the DPC found previously, Mitigation Measure 4.7.8 is ultimately inadequate, because "there are no assurances that the project proponent or any other entity would perform the needed improvements" identified in the Flood Protection Plan. DPC Findings at 6. However, it further compels the conclusion that 200-year flood protection is appropriate for the proposed residential development of an urban density.

Conclusion

The revised Old Sugar Mill Project would result in the construction of a residential development of urban density immediately behind an aging agricultural levee. Because the Clarksburg General Plan makes clear that the proposed 123 residential units are not "needed," and because adequate flood protection is not "already provided," the revised Project remains inconsistent with Land Use Policy 4.

Sincerely,

Gregory C. Loarie
Deborah S. Reames
Attorneys
Phillip Hoos
Research Associate

ATTACHMENT A

STATE OF CALIFORNIA – THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, GOVERNOR

THE RECLAMATION BOARD
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August 3, 2005

Mr. David Morrison, Assistant Director
Planning and Public Works Department
County of Yolo
292 West Beamer Street
Woodland, CA 95695

Dear Mr. Morrison:

Thank you for providing copies of the Old Sugar Mill Specific Plan Public Review Draft, Clarksburg, California, Yolo County, August 23, 2004 and Draft Old Sugar Mill Specific Plan Program Environmental Impact Report, August 2004 (EIR) for review by the Reclamation Board. Board staff have reviewed both documents and offer the following general comments applicable to both documents, and specific comments on each document individually. These comments will be reviewed by Board members at the September 16, 2005, meeting.

OLD SUGAR MILL SPECIFIC PLAN PUBLIC REVIEW DRAFT (OSMSP)
AND
DRAFT OLD SUGAR MILL SPECIFIC PLAN PROGRAM EIR
General Comments

The area described in the Specific Plan is protected by Federal levees that have been incorporated into the state plan of flood control. The effective operation of federal flood control levees along Elk Slough and the Sacramento River is essential for the safety of individuals and property located in the floodplain protected by those levees. ww 1

A Board permit will be required for any plan of work within an adopted plan of flood control that involves cutting into the levee, or outside an adopted plan of flood control if it is foreseeable that the plan of work could be injurious to or interfere with the successful execution, functioning, or operation of any facilities of an adopted plan of flood control. Work outside an adopted plan of flood control that may be injurious to or interfere with the successful execution, functioning, or operation of any facilities of an adopted plan of flood control includes, but is not limited to, excavation that may encounter permeable sedimentary layers that may facilitate seepage under the levee and reduce levee integrity. Although it is not possible to prove that no risk exists to the adopted plan of flood control, the potential for such risk should be reasonably investigated and the Board satisfied either that no risk has been identified or that an identified risk can be safely mitigated. Both the Specific Plan and EIR should describe, in appropriate detail, how these regulatory concerns of the Reclamation Board will be addressed.

W62

Of particular concern to the Board is the condition of the levees that protect the area described in the Specific Plan. Existing levees in the area described in the Specific Plan were constructed decades ago, and, if typical of the system, were intended primarily to maintain river flow for navigation and to reclaim overflow land for agricultural purposes. Agricultural, industrial, and other non-residential land use practices are compatible with the state plan of flood control for which the existing levees were constructed.

The state plan of flood control includes approximately 1600 miles of levees similar to those at issue in the Specific Plan, but knowledge of the physical condition of a given stretch of levee may be quite limited. Although the state performs levee inspections, those inspections are conducted to ascertain whether maintenance is being performed according to certain minimum standards, and not to evaluate the structural integrity of the levee. Unless obvious, problems with levee integrity may not be identified during the state inspection. To identify significant problems, the state relies upon levee inspections performed by the local maintaining agencies, special studies authorized by the state legislature, or investigations undertaken by the federal government; usually, a levee studies involve a combined effort by all three entities. In the absence of such studies, the Board does not know whether the levees that protect the area described in the Specific Plan are adequate to provide flood protection to an urban area.

Because of a lack of information about those levees, the Board cannot assure the County that existing levees provide a level of flood protection adequate for urbanization. Levees sufficient to protect urbanization should be certified as having the minimum protection required for Federal Emergency Management Agency (FEMA) certification. Although the levees were certified in 1990, the 1997 flood forced a reevaluation of the 100-year flood hydrology; the 100-year event is now recognized to be a larger event than in 1990. Historically, where the Board has regulatory oversight of levee improvements or upgrades in urban areas, it has sought protection sufficient to pass a 200 year event. The Board recommends that the Specific Plan address a need for levees protecting the area covered by the Specific Plan be re-certified by FEMA in recognition of the increase in 100-year flood hydraulics, as well as the development since 1990 of more stringent levee stability and seepage criteria. And, while the Board takes no position on the integrity of the levees protecting the area described in the Specific Plan, concerns regarding the sufficiency of those levees to support urbanization have been raised to the Board (see letter from Gilbert Cosio, MBK Engineers, to James Pashl, dated May 11, 2005, attached).

The consequences of urban development in a floodplain protected by levees can be significant in terms not only of human safety and the protection of property, but to State financial resources. When it accepts a federal flood control project, the State agrees to indemnify the Federal government, and the local maintaining agency agrees to indemnify the State when it accepts the project from the State. Flooding that results from a failure of a portion of the state plan of flood control for which assurances have

been given to the Federal government expose both the State and local maintaining agency to significant potential liability.

Urbanization alters the use of the state plan of flood control, forcing levees that have been built for agricultural reclamation, and relied upon primarily for that purpose, to support increased human development and related activity. The implications of the change in the use of the state plan of flood control have not been addressed in the documents. Concomitant with that change, projects envisioned by the Specific Plan affect the ability of the appropriate flood control agency to operate, maintain, make improvements to, and control encroachments on flood control project features, which also have not been adequately addressed.

OLD SUGAR MILL SPECIFIC PLAN PUBLIC REVIEW DRAFT (OSMSP)
Specific Comments

Section 1.4 Sugar Mill Project Objectives, page 1-8
Add an objective to demonstrate that the flood control system is adequate to protect an urbanized area. WW 3

Section 1.8 Clarksburg General Plan Implementation, page 1-15, first paragraph
We recommend you add that a key purpose of the Specific Plan is to work with appropriate agencies to assure the adequacy of the flood control system. WW 4

Section 1.9.1 Clarksburg General Plan Consistency, Safety Policies, page 1-22
We recommend the adoption of a safety policy related to the maintenance and potential upgrade of facilities of the plan of flood control. Expected level of flood protection may decrease with time through a combination of changes in our knowledge of river hydrology and deterioration in flood protection structures. The Specific Plan should identify existing and potential future problems and propose solutions such as increasing setback limits from existing levees in the proposed design standards of the OSMSP or through the use of zoning changes that do not encourage development adjacent to levees. WW 5

Section 2.8.2 Permitted Uses, Setbacks, DS 29, page 2-20
Yolo County was a member of the Sacramento River Corridor Planning Forum, and participated in the creation of river-front development recommendations by that Forum. Among those recommendations were setback distances. The Yolo County Specific Plan should either be consistent with the recommendations of the Planning Forum it endorsed, or explain the discrepancy. WW 6

The statement that "where the building pad is located on fill that abuts the levee . . . the buildings shall be set back at least ten feet (10') from the edge of pavement on South River Road" is contrary to Board requirements. Such a setback would encroach upon the federal levee and thus require a permit from the Board. As written, the proposal and would not receive endorsement from Board staff for the necessary permit. We recommend the language be amended to be consistent with Board regulations.

Section 2.9.3 Development Standards, DS 34, page 2-22

WW7 A design standard similar to DS 34 should be developed for levee setback distances or buffer zones. The established setback distance should conform to the preliminary levee protection zone standards of the Sacramento River Corridor Planning Forum in which Yolo County was a participant.

Section 3.3.6 South River Road, DS 10, page 3-7

WW8 Driveways attached to the face of the levee will require an encroachment permit from the Reclamation Board. The proliferation of access ramps to the levee should not be encouraged and Board staff will, in general, not be recommending approval of applications for the construction of additional levee access ramps.

Section 3.8 Drainage and Flood Control, page 3-18

WW9 Under Section 3.8, Drainage and Flood Control, the specific plan only addressed storm drainage and did not address the importance of flood control and the importance of the levee system in providing flood protection or the need to be able to maintain and improve these facilities in the future.

Section 4.2.1 Site Review Process, second bullet, page 4-2

WW10 Applications should also identify and show and levee boundaries, easements, and setback requirement on submitted plans.

Appendix: Old Sugar Mill Design Guideline

WW11 **General Comments on Landscaping** – Vegetation planted on or adjacent to a levee will require a Reclamation Board encroachment permit. The types of trees that are suitable for planting are identified in the California Code of Regulations, Title 23 Waters, Division 1 Reclamation Board, Section 131 Vegetation.

WW12 **General Comments on Fencing** – A boundary, including the use of fencing, to clearly define the separation between developed residential properties adjacent to a levee and the regulated area of the levee, easement or setback should be required to prevent adjacent property owners from illegally encroaching upon critical flood control facilities, a major problem when residential development occurs adjacent to a levee.

DRAFT OLD SUGAR MILL SPECIFIC PLAN PROGRAM EIR
Specific Comments

Section 2.2 Project Impacts, page 2.3
The EIR did not address project impacts to flood protection. The project area is protected by federal flood control levees of the Sacramento River Flood Control Project that is regulated by The Reclamation Board and maintained by RD 999. The State's plan of flood control for this area is being impacted by the introduction of residential development in the project area and the EIR did not address changes to the adopted plan of flood control. WW13

Section 2.2 Project Impacts, Population, Employment & Housing, page 2.4
The EIR did not address the number of people at risk from flooding from an increase in population in an area protected from flooding by levees. WW14

Section 2.3 Areas of Controversy, page 2.4
The adequacy of the flood control levees along Elk Slough and the Sacramento River and the impact of flood safety need to be addressed. WW15

Table 2.1, Mitigation Measure 4.1.2b, page 2.6,
The project would limit the ability of future levee construction, restoration, or other improvements such as the installation of seepage berms or widening of the levee section. Mitigation may include establishing additional setback distances for areas adjacent to levees such as those recommended in the draft Sacramento River Corridor Planning Forum Guidelines, which includes the Clarksburg area. A discussion of the need for additional area for should be included. WW16

Table 2.1, Mitigation Measure 4.1.7c, page 2.8
Indicate the need for permits from Reclamation Board and other regulatory agencies for any work on or adjacent to the levee and with in the channel of the Sacramento River and Elk Slough. WW17

Table 2.1, Impact 4.2.1, page 2.10
The EIR has not addressed the impacts on the levee stability, maintenance, etc. associated with increased traffic on South River Road. WW18

Table 2.1, Mitigation Measure 4.4.1a, page 2.14
Indicate the need for permits from Reclamation Board and other regulatory agencies for any work on or adjacent to the levee and with in the channel of the Sacramento River and Elk Slough. WW19

Table 2.1, Mitigation Measure 4.4.2h, page 2.20
The EIR did not address the need for permits from Reclamation Board and other regulatory agencies for any work on or adjacent to the levee and with in the channel of the Sacramento River and Elk Slough. WW20

Table 2.1, Impact 4.7.6, page 2.41
The current 1990 FEMA mapping is out of date and does not account for the increase in the 100-year flood due to the occurance of the 1997 flood event, which changed the statistics used to compute the 100-year flood. The FEMA studies also do not include the use of the more recent stringent criteria recently developed by the Corps to evaluate levee seepage and stability and the flood protection shown by the FEMA mapping (Zone B) may not be applicable if the levees are reevaluated. A mitigation measure for this is to reevaluate the levees using the new criteria prior to approval of the EIR or implementing the project. There is no mention that the area is protected by a federal flood control levee of the Sacramento River Flood Control Project that is regulated by The Reclamation Board and maintained by RD 999. There is no discussion of an emergency response plan or consequences of a catastrophic levee failure and resultant flooding. Mitigation measure is to prepare an emergency response plan. ww 21

Table 2.1, Impact 4.12.1, page 2.57
The EIR did not clearly address the adverse effects of seismic failure of the levee during high water conditions and the potential for rapid flooding of the area. Mitigation should include a reevaluation of the levees and verification of the level of protection being provided. ww 22

Section 3.4.1 Land Use Vision, Waterfront and Open Space Uses, page 3-23,
The EIR did not address the purpose of the levee, which is to provide for the public safety from flooding by the Sacramento River to the lands, structures and people protected by the levee. The levee is part of the SRFCP federal flood control project and an adopted plan of flood control. The SRFCP was designed and constructed by the Corps of Engineers (federal), regulated by The Reclamation Board (state), and maintained by Reclamation District 999 (local). A permit from the Reclamation Board, including endorsement by the local maintaining agency, is required for any plan of work within an adopted plan of flood control, such as the SRFCP. ww 23

Section 3.4.3 Public improvement and Facilities, Waste Water Treatment and Disposal, page 3-36,
The EIR did not address seepage from the ponds and potential impacts to the levee structure and stability. ww 24

Section 3.5 Scheduling and Phasing, page 3-40,
The EIR did not discuss the need to apply for and obtain a Reclamation Board encroachment permit prior to beginning construction on or adjacent to the levee. The issuance of a permit takes between 60 and 180 days, once all submittals have been received. ww 25

Section 3.7.2 Other Governmental Agency Approvals, page 3-53, second to last bullet
Replace "excavation and/.or construction activities on the Sacramento River levee" with "any work within the floodway, on the levee, or landward of the levee that, in the opinion of the Reclamation Board, may affect the adopted plan of flood control". WW 26

Section 4.7.1, Flooding, page 4.7-4
Zone B also includes areas protected from flooding by levees, such as this area. The EIR did not address the adequacy of the current FEMA maps and that existing maps do not always represent the actual risk of flooding in an area do to the time lag between implementing a remapping of an area and release of final maps, which may be several years. WW 27

Section 4.7.1, Local Reclamation Districts, page 4.7-9, first sentence
Replace "levee" with "levee or any activities landward which may affect the structural integrity of the levee". WW 28

Section 4.7.1, Local Reclamation Districts, page 4.7-9, second sentence
Replace "jurisdiction over" with "the". WW 29

Table 4.7-3, Impact 4.7.6 Flooding
The impact from flooding can not be considered less than significant for any alternative until the levees providing flood protection for the area have been certified as providing the level of protection required for urban areas. WW 30

Impact 4.7.6, Flooding, page 4.7-27
The majority of the project site can not be considered to be protected from flooding until the levees have been reevaluated using the most recent criteria for seepage and stability and can be certified as provided the level of protection required for urban areas. WW 31

Section 4.11.1, Flood Control, page 4.11-9, third sentence from end
Replace "and an" with "and issuance of an approved". Replace "District" with "Board". WW 32

Section 4.12.1, Site Topography, page 4.12-1, first sentence
Replace "purposes." with "purposes to protect the area from flooding." WW 33

Section 4.12.1, Liquefaction, page 4.12-7, last paragraph
The EIR did not address the effects of potential liquefaction on the levee and how a catastrophic failure during flood season would affect the entire area. WW 34

Section 4.12.1, Earthquake-Induced Settlement, page 4.12-7
This EIR did not address earthquake-induced settlement of the levee and potential consequences to public safety. WW 35

ww36

Section 4.12.1, Settlement, page 4.12-8

- The potential for settlement due to increased traffic on River Road has not been addressed.

ww37

Section 4.12.2, Impact 4.12.1, page 4.12-14

- The potential for failure of the levee due to excessive ground motion induced by an earthquake has not been adequately addressed and can not be considered to be less than significant. The levees need to be certified as providing the protection required and not assumed to have it because they were accepted into the SRFCP by the Corps sometime in the early to mid 1900's.

ww38

Section 6.1 Growth Inducing Impacts, page 6.1, first paragraph

The growth inducing impacts of changing a primarily agricultural area to an urbanized area and increasing the number of people protected by levees designed primarily to provide flood protection for an agricultural area have not been adequately discussed.

ww39

Section 6.4 Significant Irreversible Environmental Changes, page 6.3, first paragraph

The irreversible impact of development adjacent to a levee have not been identified and addressed. Constructing the project as proposed with development adjacent to the levee greatly inhibits the ability to work on or modify the flood protection levee in the future. It is more economical to use seepage berms placed adjacent to the levee on the landside verses constructing a slurry wall with in the levee to address under seepage problems. Development adjacent to the levee also affects the ability to remove and replace the existing levee or to increase the height or width of the existing levee if additional flood protection is need in the future.

If you have any questions, or need additional information, please contact Mr. Stephen Bradley, Chief Engineer for The Reclamation Board at (916) 574-0608.

Sincerely,

Peter D. Rabbon
General Manager

ATTACHMENT B

DEPARTMENT OF TRANSPORTATION
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Flex your power!
Be energy efficient!

December 19, 2005

05YOL0042
05-YOL-84 PM Various
Old Sugar Mill Specific Plan
Draft Environmental Impact Report (Recirculated)
SCH# 203022104

Mr. David Morrison
Yolo County Planning and Public Works Department
292 W. Beamer Street
Woodland, CA 95695

Dear Mr. Morrison:

Thank you for the opportunity to comment on the Old Sugar Mill Specific Plan (Recirculated) Draft Environmental Impact Report (DEIR). Our comments are as follows:

- Our comments from our previous letter dated September 28, 2004 are still valid. A copy of the letter is attached.

- As indicated in the previous letter, Caltrans requested that a Traffic Impact Study (TIS) be prepared to assess the project's impacts to State Route (SR) 84 in the vicinity of Clarksburg Road. We are concerned that our request (as stated in our September 28, 2004 letter) was not addressed and would like to know why the TIS has not been completed and/or submitted to Caltrans for our review and evaluation.

- State Route 84 will be impacted by future development in this area and intersections that will run from developments to SR 84 will likely require enhancements to mitigate the increased traffic volumes. This would also include the likely possibility of additional right of way on SR 84 and at intersection locations. If this is the case, a dedication to the State can be processed as a condition of approval for an Encroachment Permit. Please contact Gay Murdock at the Caltrans Right-of-Way Engineering section at (530) 741-7372 for instructions on making a dedication of right of way to the State.

- All work within the State's right of way requires a Caltrans encroachment permit. For permit assistance, please contact Bruce Capaul, District 3 Office of Permits at (530) 741-4403.

- As indicated in the recirculated DEIR, alternatives 1-3, 5, and 6 conditions can be mitigated by striping the southbound River Road approach to have a designated right-turn lane, separating the through and turn movements on that approach (Mitigation Measure 4.2.1). Further stated, the ultimate configuration of the intersection would be *determined* (italics added) by Caltrans (DEIR Executive Summary, page 2-10). Yolo County can, in fact, design the reconfiguration to State Route 160 (River Road) with the Caltrans role being the reviewer and approver of the changes to the intersection. Thus, Caltrans is not an impediment in the redesign of the intersection and wishes to work with Yolo County in developing effective mitigation measures on any state facility, as needed. Please contact Patrick Tyner, Caltrans District 3 Planning in Sacramento at (916) 274-0558 to coordinate this effort.

- The project site abuts the levee of the Sacramento River to the east. There is the concern for flooding in an area of proposed single family residential, cottage residential, and senior/cluster residential housing which is far removed from emergency services. Accordingly, the Draft Environmental Impact Report (DEIR) should address (with maps) emergency evacuation routes to and from the project area after consultation and coordination with City of West Sacramento, Yolo County Transit District and Caltrans.

Please provide our office with copies of any further action regarding this project. If you have any questions regarding these comments, please contact Patrick Tyner at (916) 274-0558.

Sincerely,

Katherine Eastham

KATHERINE EASTHAM, Chief
Office of Transportation Planning—Southwest and East